

Central Administrative Tribunal
Principal Bench

O.A. No. 354 of 1998

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New Delhi, dated this the 12th ~~January~~ February, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Kanchan,
S/o Shri Rameshwar,
Inspector of Works (Hort.),
Northern Railway,
Jind, Haryana.

(By Advocate: Shri S.K. Sawhney)

Versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Superintending Engineer (Coord),
Northern Railway,
D.R.M. Office,
Chelmsford Road,
New Delhi.
3. Divisional Personnel Officer,
Northern Railway,
D.R.M. Office,
Chelmsford Road,
New Delhi.
4. Shri Om Prakash Singh,
S/o Shri R.P. Singh,
Officiating I.O.W. (Hort.),
Northern Railway,
Sarojini Nagar,
New Delhi. .. Respondents

(By Advocate: Shri Rajeev Bansal)

ORDER

S.R. ADIGE, VC (A)

Applicant has filed this O.A. on 6.2.98
claiming to impugn what he claims is order dated
13.1.1998 (Annexure A-1) whereby Shri Om Prakash,
Respondent No. 4 has been promoted as Inspector of
Works Grade II (Rs.1600-2600) ^{> und I.O.W (Rs. 2000-3200)} in preference to him.

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He seeks promotion in the scale of Rs.1600-2660 and Rs.2000-3200 in preference to Respondent No. 4 even on ad hoc basis with arrears and benefit of seniority. (26)

2. In actual fact Annexure A-1 of the O.A. is only the extract of a statement dated 13.1.98 showing the actual details of pay fixation as a result of the Pay Commission recommendations vis-a-vis various employees including Respondent No. 4 as well as applicant. What should actually have been impugned within the period of limitation is respondents' notice dated 30.4.90 (Annexure A-3) promoting Respondent No. 4 on ad hoc basis against an ex-cadre work charged post of I.O.W. Grade II (Hort.) in scale of Rs.1600-2600 (RPS) for a period of six months.

3. It is not denied that Respondent No. 4 was promoted as I.O.W. (Hort.) Trainee Grade Rs.1400-2300 on 24.3.88 against an ex-cadre work charged post on the basis of an open selection in which applicant, though senior to Respondent No. 4 neither applied nor appeared. Thereafter Respondent No. 4 was promoted vide Notice dated 30.4.90 (Annexure A-3) as I.O.W. Grade II (Hort.) in scale of Rs.1600-2660 against the same work charged ex-cadre post for a period six months. Applicant represented his claim for promotion in the grade of Rs.1600-2660 only on 18.5.92 (Annexure A-6). If he did not receive any reply to the aforesaid

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representation he should have approached the Tribunal within the period prescribed in Section 21 A.T. Act but he did not. 27

4. Meanwhile official respondents promoted Respondent No. 4 to the higher scale of Rs.2000-3200 at the same place of posting purely on ad hoc basis for a period of three months vide Notice dated 30.11.94 (Annexure A-4).

5. Applicant represented against that promotion and putforward his own claim on 29.6.96 (Annexure A-6), in which he refers to an earlier representation dated 29.12.95 and his aforesaid representation dated 29.6.96 was followed by other representations also and getting no reply he filed this O.A. on 12.2.98.

6. It is not denied that selections for promotion to the post of I.O.W. (Hort.) Grade Rs.2000-3200 (RPS) was held in 1998. Written test for the same was held on 26.4.98 in which applicant as well as R-4 appeared and qualified. Both of them also appeared in the viva-voce test on 14.7.98, and applicant has been declared successful in the said selection vide Notice dated 12.8.98 (Annexure R-1).

7. Thus, both applicant as well as R-4 are now in the scale of Rs.2000-3200 (RPS) but R-4 would be drawing a higher pay in that scale because he entered that scale on 30.11.94. If applicant had a grievance against the same, he should have filed this

O.A. within the period of limitation. As noticed above applicant's cause of action in respect of R-4 being placed in the scale of Rs. 2000-3200 would have arisen on 30.11.94 or 29.12.95 or 29.6.96, but this O.A. was filed on 6.2.98, and is, therefore, clearly hit by limitation. There is not even an application for condonation of delay. (28)

8. Applicant contends that his drawing a lower pay than R-4 in the scale of Rs.2000-3200 gives him continuous cause of action, but this argument is not acceptable. The lower pay applicant is drawing in the scale of Rs.2000-3200 in which R-4 is also placed, is because of ad hoc promotion specifically granted to R-4 which applicant should have challenged within the period of limitation.

9. In P.K. Ramchandran Vs. State of Kerala and another JT 1998 (3) SC 21 the Hon'ble Supreme Court has held that the law of limitation may harshly affect a particular party, but it has to be applied with all its rigour when the statute so prescribes and Courts have no power to extend the period of limitation on equitable grounds.

10. The O.A. is, therefore, dismissed on grounds of limitation. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)
'gk'

S.R. Adige
(S.R. Adige)
Vice Chairman (A)